

FEDERAL RESERVE BANK *of* NEW YORK

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DAPHNE HA

ASSISTANT GENERAL COUNSEL

January 3, 2023

VIA ECF

The Honorable Lewis J. Liman
United States District Court
for the Southern District of New York
500 Pearl Street, Room 1602
New York, NY 10007

Re: *Gardner-Alfred et al. v. Federal Reserve Bank of New York*,
No. 22-cv-1585 (S.D.N.Y.) (Liman, J.)

Dear Judge Liman:

I am in-house counsel to Defendant Federal Reserve Bank of New York (“New York Fed”). During the December 16, 2022 telephone conference, Your Honor directed the parties to submit a revised case management plan (“CMP”) one week after the issuance of an order regarding the liens held by Plaintiffs’ former counsel (the “Order”). Tr. 22:9-11. The Order issued on December 27, 2022 (Dkt. No. 74), and thus the parties’ deadline to submit a revised CMP is today. As detailed below, Plaintiffs’ counsel has not responded to the New York Fed in its efforts to confer on a revised CMP.

On December 29, 2022, the New York Fed informed Plaintiffs’ counsel that it had gathered the parties’ prior productions pursuant to the Order. Dkt. No. 74, at 7. The New York Fed also asked Plaintiffs’ counsel for his availability to meet and confer regarding discovery deadlines. On December 31, 2022, Plaintiffs’ counsel said he would “circle back.” Not having heard from Plaintiffs’ counsel since, the New York Fed reached out again at noon today and has not received a response as of this writing.

The New York Fed remains ready to complete discovery and defend this action. As the Court is aware, Plaintiffs’ prior counsel withdrew following, in his words, “the plaintiffs’ refusal to cooperate with counsel during the course of discovery.” Tr., Nov. 3, 2022, at 6. Despite current counsel’s assurances that Plaintiffs would meet their obligations and correct deficiencies in their discovery—on which basis the New York Fed withdrew its prior motion to compel, *see* Dkt. No. 62—Plaintiffs continue not to meet their discovery obligations. They failed to meet and confer on a proposed CMP as required by the Court; have not responded to the New York Fed’s December 29, 2022 notification that the parties’ prior document productions are available upon payment of costs; still have not produced communications responsive to the New York Fed’s document requests; have refused to provide contact information for individuals identified by

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Plaintiffs in their initial disclosures despite repeated requests; and, as a result, continue to delay depositions.

Given these circumstances, the New York Fed does not believe Plaintiffs will meet the current January 27, 2023 deadline to complete fact discovery. Nor is the New York Fed able to propose deadlines for a revised CMP given Plaintiffs' failures, including their refusal to provide an update about when they will produce outstanding documents.

Respectfully Submitted,

/s/ Daphne Ha

Cc: Counsel of record (via ECF)